

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.511 of 2013

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Chandrakali Devi, wife of late Rajdeo Pandit, resident of village-Marsuwa,
P.S.-Makhdumpur, District-Jehanabad.

.... Appellant

Versus

The Union of India through the General Manager, Eastern Railway, Kolkata

.... Respondent

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Appearance :

For the Appellant/s : Mr. Anant Kumar-1, Advocate

For the Respondent/s : Mr. Anil Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA
ORAL ORDER

7 06-01-2015

Heard.

This is an Appeal preferred against order dated 14th August 2012 passed by Railway Claims Tribunal, Patna Bench in Claim Application No. 0A 000186/2002 refusing claim of the appellant preferred against death of her husband taking place in a train accident while he was traveling from Gaya to Rafiganj.

Since claim has been refused only on the ground of the deceased being not a *bona fide* passenger, there appears no necessity to go in further details of the pleading etc. of the parties.

This is undisputed and substantiated from the findings of the Claim Tribunal that in the manner alleged the husband of the appellant died along with the 3 other persons and the claim preferred against their heirs have also been allowed under two different cases vide annexures 1 and 2 but in view of non-availability of the ticket of the deceased husband of the

appellant especially when the appellant claimed herself as companion to the deceased and filed Xerox copy of a single ticket her claim has been rejected.

True it is, the appellant has claimed in the application that she was accompanied her husband but even in her cross-examination expresses her inability to show about date of journey etc. the Claim Tribunal has rightly disbelieved her presence there.

In that view of the matter, any further statement regarding recovery of ticket from the person of the deceased and appellant being an eye witness of the occurrence etc. cannot be accepted and rightly disbelieved by the Claim Tribunal but at the same time in view of undisputed fact that the deceased lost his life in an untoward incident taking place during traveling non-recovery of railway ticket alone cannot be proved fatal against the claims in view of the decision of this Court rendered in the case of ***Smt. Kaushalaya Devi & Ors. Vs. Union of India, Through General Manager, North Eastern Railway, Gorakhpur, U.P.*** reported in ***2008 (3) PLJR 711***.

This is also undisputed and apparent from the evidence of the appellant that deceased left behind his widow the appellant and four children namely, Arjun Pandit, Abhilesh Pandit, Mithilesh Pandit and Vijay Pandit and claim has been preferred

for his heirs. Hence, they appear entitle for the compensation as per Rule.

In view of the above, the impugned order dated 14th August 2012 passed by Railway Claims Tribunal, Patna Bench in Claim Application No. 0A 000186/2002 is set aside and respondents are directed to pay Rs.4,00,000/- (Four Lakhs Only) with interest @ 6 % *per annum* from the date of filing of the application till actual amount shall be received by the appellant for herself and other heirs of her deceased husband.

Further appellant is also directed to furnish due mandate within a period of one month from today, failing which she shall be deprived from the interest accruing after the period fixed for filing the mandate.

(Akhilesh Chandra, J)

Ashwini/-

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